

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Preston House,

Plaintiff

v.

TH Foods, Inc.,

Defendant

Case No.: 2:24-cv-01326-JAD-DJA

**Order Denying Motion
re: § 1981 Claim**

[ECF No. 91]

Plaintiff Preston House sues his former employer TH Foods, Inc. under Title VII of the Civil Rights Act of 1964 and Nevada’s state-law corollary.¹ Motions to dismiss left House with a single claim for retaliation based on his allegations that he was subjected to “false and contrived” disciplinary actions for bogus reasons after he reported his manager’s racially motivated comments.² House now moves “for an order clarifying and confirming that his “operative complaint sufficiently alleges a claim for race-based retaliation under 42 U.S.C. § 1981,” and if not, he asks for leave to amend to state such a claim.³

House does not presently have a § 1981 claim. His amended complaint, which was counseled and is the operative one in this case, does not mention that statute.⁴ And when I evaluated the motion to dismiss and left him with his “claim for retaliation only,” I did so under Title VII and Nevada’s state corollary only.⁵ So for House to move forward with a § 1981 claim, he would need leave to amend.

¹ ECF No. 18.

² ECF No. 64.

³ ECF No. 91. I find this motion suitable for disposition without waiting for a response.

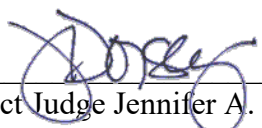
⁴ *See generally* ECF No. 18.

⁵ *See* ECF No. 64.

1 But the deadline to seek amendment passed months ago,⁶ and House does not ask to
2 extend that deadline or provide the showing needed to obtain that relief.⁷ Plus, this court's Local
3 Rule 15-1(a) requires a plaintiff moving for amendment to "attach the proposed amended
4 pleading" to the motion for leave,⁸ and House has not done that. So House has not carried his
5 burden to obtain leave to amend to assert a § 1981 claim based on the instant filing.

6 **Conclusion**

7 IT IS THEREFORE ORDERED that the motion to clarify or for leave to amend
8 **[ECF No. 91] is DENIED without prejudice.**

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U.S. District Judge Jennifer A. Dorsey
July 1, 2025
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⁶ ECF No. 28 (deadline to amend pleadings was January 22, 2025).

21 ⁷ L.R. 26-3 ("A request [to extend a scheduling order deadline] made after the expiration of the
22 subject deadline will not be granted unless the movant also demonstrates that the failure to act
23 was the result of excusable neglect."); *Branch Banking & Tr. Co. v. D.M.S.I., LLC*, 871 F.3d
751, 765 (9th Cir. 2017) (noting that a request to amend a complaint after the amendment
deadline requires a showing of good cause and excusable neglect).

⁸ L.R. 15-1(a).